

1 THE HONORABLE JOHN C. COUGHENOUR  
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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 EZRA ALEM,

11 Plaintiff,

12 v.

13 ADRIAN DIAZ, *et al.*,

14 Defendants.

CASE NO. C22-0513-JCC

MINUTE ORDER

15 The following Minute Order is made by direction of the Court, the Honorable John C.  
16 Coughenour, United States District Judge:

17 This matter comes before the Court *sua sponte*. The Court must dismiss an *in forma*  
18 *pauperis* complaint before service if the action fails to state a claim, raises frivolous or malicious  
19 claims, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C.  
20 § 1915(e)(2)(B). On April 21, 2022, United States Magistrate Judge Michelle L. Peterson  
21 granted Plaintiff's motion to proceed *in forma pauperis* and recommended that the complaint be  
22 reviewed under § 1915(e)(2)(B) before the issuance of a summons. (Dkt. No. 4.)

23 Federal Rule of Civil Procedure 8 requires a pleading to contain "a short and plain  
24 statement of the grounds for the court's jurisdiction" and "a short and plain statement of the  
25 claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(1), (2). Conclusory  
26 allegations of law and unwarranted factual inferences are not sufficient to state a claim. *Vasquez*

1 *v. L.A. Cnty.*, 487 F.3d 1246, 1249 (9th Cir. 2007). Dismissal is appropriate if a complaint fails to  
 2 put forth “a cognizable legal theory.” *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th  
 3 Cir. 1988). Similarly, courts may dismiss based on qualified immunity under § 1915(e)(2)(B)(iii)  
 4 “if it is clear from the complaint that the plaintiff can present no evidence that could overcome a  
 5 defense of qualified immunity.” *See Chavez v. Robinson*, 817 F.3d 1162, 1169 (9th Cir. 2016).

6 Plaintiff’s complaint does not contain grounds showing that he is entitled to the relief he  
 7 seeks. Plaintiff names Seattle Chief of Police Adrian Diaz and King County Prosecuting  
 8 Attorney Daniel Satterberg as Defendants. (Dkt. No. 5 at 2, 4.) He alleges that, under Chief  
 9 Diaz’s direction, unnamed Seattle Police Department officers “falsely accused me of committing  
 10 a serious offense . . . and falsely stated a claim of threatening a government facility while in  
 11 custody.” (*Id.* at 4.) Plaintiff further alleges that “[t]he Prosecuting attorney later dropped charges  
 12 for a D.V. assault against my attacker” for “unknown” reasons. (*Id.* at 5.)

13 Even applying the Ninth Circuit’s directive to construe *pro se* complaints liberally, the  
 14 Court cannot find that Plaintiff has stated a claim upon which relief can be granted. *See Hebbe v.*  
 15 *Pliler*, 627 F.3d 338, 342 (9th Cir. 2010). First, Plaintiff’s complaint fails to demonstrate how the  
 16 conduct at issue violated *clearly established law*—a requirement to defeat a police officer’s  
 17 qualified immunity. *See Wood v. Ostrander*, 879 F.2d 583, 593 (9th Cir. 1989). Second, to hold  
 18 Chief Diaz liable for an officer’s conduct, Chief Diaz must have “participated in or directed the  
 19 violation, or knew of the violation and failed to prevent it.” *Taylor v. List*, 880 F.2d 1040, 1045  
 20 (9th Cir. 1989). The complaint contains no such allegations. (*See generally* Dkt. No. 5.) Third,  
 21 nothing in the complaint suggests that Prosecuting Attorney Satterberg was *not* acting as an  
 22 officer of the court when he undertook conduct that Plaintiff considers to be actionable. (*See id.*  
 23 Dkt. No. 5.) Therefore, the claims sought against Mr. Satterberg are barred by prosecutorial  
 24 immunity. *See Van de Kamp v. Goldstein*, 555 U.S. 335, 342 (2009).

25 Although the Court finds that the complaint fails to state a claim upon which relief can be  
 26 granted, it will not dismiss the underlying claims unless “it is absolutely clear that no amendment

1 can cure the [complaint's] defect[s]." *Lucas v. Dep't of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995).  
2 Accordingly, the Court ORDERS that Plaintiff file an amended complaint no later than 21 days  
3 from the date of this order. In his amended complaint, Plaintiff must allege facts (not legal  
4 conclusions) addressing the infirmities described above. If he is unable to do so, the Court will  
5 dismiss the case.

6 The Clerk is DIRECTED to mail a copy of this order to Plaintiff.  
7

8 DATED this 22nd day of April 2022.

9 Ravi Subramanian  
Clerk of Court

10 s/Sandra Rawski  
11 Deputy Clerk